



# MEMO ENDORSED

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January 23, 2006

**BY FAX**

The Honorable James C. Francis IV  
United States Magistrate Judge  
Daniel Patrick Moynihan  
United States Courthouse  
500 Pearl Street - Room 1960  
New York, New York 10007-1312

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: <u>1/24/06</u>
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DOCKET  
IN ALL  
CASES  
↓

**Re:** Crotty, et al. v. The City of New York, et al. (USDC SDNY 05 CV 7577 (KMK) (JCF))  
Coburn, et al. v. The City of New York, et al. (USDC SDNY 05 CV 7623 (KMK) (JCF))  
Sloan, et al. v. The City of New York, et al. (USDC SDNY 05 CV 7668 (KMK) (JCF))  
Galitzer, et al. v. The City of New York, et al. (USDC SDNY 05 CV 7669 (KMK) (JCF))  
Abdell, et al. v. The City of New York, et al. (USDC SDNY 05 CV 8453 (KMK) (JCF))  
Adams, et al. v. The City of New York, et al. (USDC SDNY 05 CV 9484 (KMK) (JCF))  
Will, et al. v. The City of New York, et al. (USDC SDNY 05 CV 9974 (KMK) (JCF))  
Emmer v. The City of New York, et al. (USDC SDNY 05 CV 9993 (KMK) (JCF))  
Bruce v. The City of New York, et al. (USDC SDNY 05 CV 10006 (KMK) (JCF))  
Scharf v. The City of New York, et al. (USDC SDNY 05 CV 10012 (KMK) (JCF))

Dear Judge Francis:

As we discussed with you at the last RNC status conference, on January 18, 2006, defendants respectfully request that you order plaintiffs in the above-captioned cases to release to defendants their information that has been sealed pursuant to New York Criminal Procedure Law § 160.50. As Your Honor is aware, to obtain information sealed pursuant to NYCPL § 160.50, including the Criminal Court files and District Attorney's files that relate to the arrest and prosecution of these plaintiffs, and to begin to investigate the circumstances of those arrests and prosecutions, defendants need properly executed releases from plaintiffs.

In a series of letters to plaintiffs in the foregoing actions, Defendants have provided to plaintiffs blank release forms and have requested their prompt cooperation in executing them. Defendants subsequently have written to plaintiffs in each of these actions on multiple occasions to remind them of the information needed, to apprise them that these cases cannot proceed without their cooperation and to inform them that Defendants would be forced to seek court intervention in the absence of their cooperation in discovery.

By way of example, attached please find the September 29, 2005 letter (and 3 follow-up letters) in the case of Coburn, et al. v. The City of New York, et al. (Exh. "A"). Substantially identical letters have been sent in each of these cases on the following dates:

Crotty - November 10, December 28  
Coburn - September 29, October 31, December 1 and December 29  
Sloan - September 28, November 2, and December 29  
Galitzer - September 29, November 4, December 8 and December 29  
Abdell - October 17, December 6, December 28  
Adams - November 21, December 6 and December 28  
Will - December 28, January 10  
Emmer - December 8, December 29  
Bruce - December 9, December 29  
Scharf - December 19, January 6

Despite these repeated requests, the following plaintiffs have failed to provide releases:

Crotty - Kavita Kulkarni  
Coburn - Sarah Coburn  
Sloan - Emily Sloan; Michael Sladek  
Galitzer - Gwynn Galitzer  
Abdell - Laura Kressley  
Adams - Sidney Vault; Scott Beibin  
Will - Bradley Will  
Emmer - Keith Emmer  
Bruce - Douglas Bruce  
Scharf - Andrea Scharf

Given the critical importance of the discovery sought through these releases, the ample opportunity provided to plaintiffs to cooperate in discovery, the repeated warnings to plaintiffs that defendants would seek Court intervention absent compliance and the complete failure of these plaintiffs to comply with defendants' requests, defendants respectfully request that plaintiffs in the above-captioned actions be ordered to provide to defendants properly executed releases within ~~five (5)~~ *ten (10)* days of your order on this application or be subject to the dismissal of their claims. *ten (10)* //

Very truly yours,

*James Mirro*  
 James Mirro

cc: Counsel in the captioned cases (by email)  
 Peter Farrell  
 Fred Weiler  
 Jed Weiss  
 Jeff Dougherty

*1/24/06*  
*Application granted as modified.*  
*SO ORDERED.*  
*James C. Francis IV*  
*USMS*